



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

PRISON LABOR AND SOCIAL JUSTICE

BY F. EMORY LYON, Ps.D.,

Superintendent, Central Howard Association, Chicago.

One must seek far to surpass the appeal to justice. The appeal of love, while powerful, is often superficial and sentimental. But the appeal to justice is fundamental and far-reaching. It is safe to say that no great question of public policy or human welfare was ever finally determined except by the dictates of justice.

History records the perpetuation of many injustices to portions of humankind through custom, through prejudice and self-interest and through limited notions of universal justice. A striking example of this is found in the long continuance of slavery into a civilized and Christian era. We now boast that chattel slavery, at least, has been abolished. But our quickened consciences remind us that certain forms of wage-slavery may contain essential elements of the ancient evil.

Thus far our feeling concerning justice has scarcely extended beyond consideration for those who are meritorious, though weak and helpless save for the magnanimity of the strong. But in the minds of many the growing sense of brotherhood must ultimately encompass the discredited, the derelict and the delinquent members of society. That the state cannot afford to return enmity for enmity has been fairly decided. In this it has been characteristically human by being generous before being just. In principle we proclaim reformation, rather than punishment, as the object of imprisonment. In practice, however, it would seem that much of the old spirit of retaliation, not to mention the spirit of real injustice, still persists. This is particularly apparent in the economic relation of society to its members who are in prison. May it not be gravely questioned whether men can ever be taught not to commit larceny, if in the effort to reclaim them something is taken from them and no equivalent returned? In other words, will it ever appeal to men's sense of fairness to be deprived not only of liberty, but of the entire fruit of their labor? Even though they have violated the law (many times because they have been denied reasonable conditions of birth

and training), shall we double their disadvantage by withholding aught of preparation or perquisite that would convince them that there is reward for honest endeavor? From high ethical authority it has been said: "The state sets the prisoner a thief's example by stealing his wages and confiscating the prisoner's earnings."

It is the purpose of this article, therefore, to discuss, not the relative merits and defects of the various forms of prison labor as practised in the past. It is, rather, to raise the more fundamental question as to whether unpaid penal servitude is justifiable on ethical, civic or industrial grounds. In the progress of prison reform slight attention has been given to the essential justice of the assumption that the prisoner has forfeited his industrial status. Those who have ventured to voice an occasional protest have been branded as theoretical idealists. Yet, strange to say, is not the legal sanction for past practice wholly negative, rather than a positive provision? Men are sentenced to "hard labor" and the law specifies the deprivation of certain civil rights, but does any constitution or statute specifically state that prisoners shall be unpaid chattels of the state? This is a question for the lawyers. But the moral law may well ignore the precedents of practice, if the letter of the law is out of keeping with the issues of justice. If it may be determined that the law and custom are wrong, then so much the worse for the law, and the sooner should we lodge a protest against the custom.

In considering this subject I venture to say we have one of the most complex and complicated problems in the realm of penological science. At the present time there is a great variance of opinion as to whether prisoners should receive anything for their labor. There is still wider divergence in practice throughout all countries. There is apparently little difference of opinion as to the fundamental wrong involved in the suffering of innocent dependents while the offender against the law is being punished or corrected. Notwithstanding this fact, however, the simplest investigation speedily discovers serious legislative, administrative, industrial and social difficulties in the way of correcting the evil.

The payment of prisoners is not a new question. It has been argued pro and con by the criminologists for centuries. The most recent authoritative presentation of the matter was made in 1910 at the Washington meeting of the International Prison Congress. At that time papers were prepared by able men of various countries.

A brief summary of those papers, or rather of the arguments for and against, will put the principles involved squarely before us.

Among the various objections to the principle of remuneration for offenders, the following may be stated:

First, the state may by right exact not only deprivation of liberty, but the deprivation of earning capacity, as punishment for crime.

Second, free labor in good standing would object to being placed on an economic equality with the offender.

Third, in so far as knowledge of others' suffering is a deterrent, provision for prisoners' families would tend to lessen the burden of responsibility, should future depredations be contemplated.

Fourth, even though the principle of paying prisoners be conceded as desirable, still the cost of maintenance and penal administration is too great to permit of an overplus for this purpose.

None of these apparent obstacles, however, it would seem, is sufficient to silence the humanitarian voice of civilization which cries aloud for the solution of every problem of injustice. Prompted by this voice, therefore, we find in that discussion certain affirmative declarations of faith:

First, the innocent should not be allowed to suffer for the defection of the guilty. The burden of their need should, if possible, be borne by the offender. Otherwise society as the protector of its weaker members is given the responsibility, either through taxation or by voluntary benevolence.

Second, the family is the primary unit of society. Its integrity must be maintained at all costs. Any treatment of the prisoner which tends to disintegrate the family contributes toward social suicide. Every effort should be made by the state to hold intact all ties of domestic accord and social sympathy that have been strained by the offender's unworthy conduct.

Third, the safety of the state and social honor are at stake in the solution of this question. The indigence and pauperism created by the misdirection of labor from its legitimate purpose are a menace to government and it is discreditable for highly organized states to be indifferent to the welfare of any subject, a few of which have fallen beneath the machinery necessary to a survival of the whole.

Fourth, as a matter of abstract justice, it is not sufficient that modern legislation has absolved the kindred of the convict. In tak-

ing away and appropriating the means of support, it has, in effect, committed an overt act of retaliation against the innocent.

Still more recently the effort to solve this vexed problem has gone far beyond the stage of discussion. That there is a growing feeling that unrequited toil, even for prisoners, is without justification, is shown by the adoption of many positive statutes on the subject. Previously, in nearly all states of all countries, some small dole was given to many prisoners as a special reward. In many cases, considerable payments have been made by private employers of prisoners for overwork. In none of these instances, however, was the economic relation of the offender to the state recognized as a principle. It remained for America, and at its capital, to inaugurate a series of laws destined to accomplish much for the rehabilitation of the offender and his family.

Washington, D. C., provides for a payment of fifty cents per day for the families of certain men in its workhouse, and the earnings of men on probation are distributed through the court to the dependents of probationers. Detroit, Mich., at its state house of correction, has legislation providing for a graduated scale of payments for its inmates, according to their industry. These earnings are used both for dependents and for rehabilitation of the released prisoner. The State of Minnesota has a most comprehensive provision for the payment of prisoners with families, and these funds are carefully administered by the prison authorities. I believe the principle is not applied to single men, though the more adequate discharge fee of twenty-five dollars is given for a new start, at the time of release. Kentucky, also, has a law declaring that its prisoners shall have a certain percentage of the net earnings of the institution. The amount is, therefore, subject to fluctuation, but under this new law over \$30,000 has been distributed to prisoners of the state for their families, and for rehabilitation after release.

Other states have doubtless made beginnings in the same direction and many are seriously considering effective legislation. It is difficult to see how, in this industrial age, we can avoid moving rapidly in that direction. The time is ripe for a forward movement and a new awakening as regards the relation of the state to the offender. Reformation by discipline has marked the first great step in the transformation of the modern prison system. Education and economic efficiency are destined to characterize the great advancement

of the future. Already the industrial ideal prevails over the military. More and more it has been seen that reformation itself could not come by moral suasion merely, or even by control and discipline alone.

It is realized that in teaching the lesson of life, those who are delinquent must be taught to do things that are necessary in a normal society. Hence most reformatories and some prisons in America have undertaken the teaching of trades. They have introduced such manual and mechanical training as will tend to prepare the individual for an industrial society. The chief purpose of such training has been to teach the lesson of thrift and the unselfish maintenance of others. One of the chief motives of toil, however, has been lacking in the prison systems of the past, because of the relation of virtual vassalage which prisoners have borne to the state. Hence, the serious question as to whether all states should, as a wise and practical measure, compensate the inmates of their penal institutions for their labor.

As to the scope and possibilities of this movement, we are only beginning to realize them. While we have no accurate or adequate statistics of the criminal population, a recent estimate states that 150,000 offenders go in and out of our penal institutions each year. From the same source we are told that the current number of prisoners is 86,600. Of this number, 2,744 are reported as ill, and 10,000 are stated to be idle. The former presumably includes only those who are in prison hospitals, the majority beyond recovery. Among the latter would doubtless be found a considerable percentage of those who by reason of age or physical and mental disability are disqualified as economic factors. In addition 21,000 is given as the number of inmates engaged in cleaning and caring for the institutions. These subtractions leave but 49,826 able-bodied, active wage earners, potentially. Nevertheless this army of men, under private management, at the fair average of two dollars per day and three hundred working days, would earn \$9,965,500. This sum is about one-half the total cost for the support, supervision and care of the whole 86,600 prisoners in the United States. This is contrary to the popular impression that the total earnings of prisoners would more than cover the cost of administration. On the contrary, only a few prisons have in recent years returned from their industries any profit to the state. And the self-supporting ones have usually shown the least desirable results from the standpoint of reformation. Where the purpose of

the state has been more than penal and custodial, and included the treatment and training of the inmates, an additional appropriation has invariably been necessary.

Doubtless these large expenditures are greatly reduced when penal institutions are entirely separated from political considerations. Even when the state employs prisoners in its own industries, able management and business methods are sure to show dividends, not only in dollars, but in reconstructed citizenship. Aside from the cost of administration, however, the possible earnings of nearly \$10,000,000 should not only cover the fair cost of maintenance, but contribute substantially to the support of over 200,000 women and children involved. If these earnings were actually used to prevent the families of prisoners from becoming public dependents there can be little doubt of the benefit to follow. Considerations of economy as well as of justice would dictate such an enlightened policy.

The economic argument has been emphasized, because at that point most strenuous objection is made. The legislator and the taxpayer tell us that if the families of prisoners are provided for, they will next be called upon to meet the needs of all wards of the state and their kindred. But they should see that while the insane patient, for instance, is receiving treatment, and contributing nothing in return, the prisoner is costing little for actual maintenance and giving much in toil to the state. No reliable facts are available to show the number of prisoners' dependents thrown upon public or private charity. The United Charities of Chicago reports 224 families of this kind assisted in a single year, at a cost of \$5,000, while the Central Howard Association, in the same city, extended proportionate relief in that direction. A conservative estimate would indicate that twenty-five per cent of all prisoners were caring for dependents before incarceration, and fifty per cent were probably under moral obligation to do so. When we remember that not only are all state prisoners thus contributing nothing to society's material welfare, but that thousands upon thousands of men in county jails are kept in idleness, then we realize the enormous loss sustained. We know that there is wicked waste, instead of the conservation of a mighty human resource.

Beyond and above that loss, however, there comes back to us again the question of justice and the baneful influence of injustice upon the victim of a bad system. The latest and loftiest argument

against the passing methods of prison labor is that it is psychic in its influence. The prisoner cannot escape the feeling that he is being exploited by a private owner of his energies. The same reason may well be given for eliminating a system of wageless work for the state itself. It will, doubtless, be given as the future reveals the quickening and beneficent effect of granting just compensation to the convicted man.